

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOHNNY RAY WELCH, JR,)	
#295 115,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:16-CV-927-WKW
)	[WO]
EDWARD ELLINGTON, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Before the court is Plaintiff Johnny Ray Welch, Jr.'s motion for reconsideration (Doc. # 13), which is construed as a motion for relief from judgment pursuant to Rule 60(b)(1) of the Federal Rules of Civil Procedure. Rule 60(b)(1) permits relief on grounds of excusable neglect.

On April 17, 2017, the court entered an order (Doc. # 11) and final judgment (Doc. # 12) dismissing this case without prejudice for failure to pay the filing fee in accordance with a January 6, 2017 order (Doc. # 5) requiring Plaintiff to pay an initial partial filing fee of \$46.88. In Plaintiff's motion to reconsider (Doc. # 13), he asserts that he never received the January 6, 2017 Order. However, on January 17, 2017, Plaintiff filed a motion (Doc. # 6) requesting the court to order the account clerk and Bibb Correctional Facility to deduct the \$46.88 fee from his prison account and

forward the fee to the court. Thus, Plaintiff did timely receive a copy of the January 6, 2017 Order. He is not entitled to relief from judgment on grounds of excusable neglect.

Accordingly, it is ORDERED that the motion for relief from judgment (Doc. # 13) is DENIED.

The court notes that this case was dismissed without prejudice, and that, on the face of the complaint, it does not appear that the statute of limitations has run on Plaintiff's claim. To assist Plaintiff in refiling his complaint if he wishes to do so, the Clerk of the Court is DIRECTED to provide Plaintiff with a copy of the form used for filing actions pursuant to 42 U.S.C. § 1983 and a copy of the form for applying for *in forma pauperis* status.

DONE this 17th day of October, 2017.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE